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a latch handle hingedly coupled to said bracket, said latch handle selectively positionable about a first longitudinal axis; and

a latch actuator hingedly coupled to said bracket and rotatable about a second longitudinal axis, said latch actuator in contact with said latch handle, a position of said latch actuator determined by a position of said latch handle, said latch handle positionable to disengage said keeper from said door retainer projection with said latch actuator.

### Remarks

The Office Action mailed October 16, 2002 has been carefully reviewed and the foregoing amendment has been made in consequence thereof.

Claims 1-19 are now pending in this application. Claims 1-19 stand rejected.

In accordance with 37 C.F.R. 1.136(a), a one month extension of time is submitted herewith to extend the due date of the response to the Office Action dated October 16, 2002, for the above-identified patent application from January 16, 2003, through and including February 18, 2003. In accordance with 37 C.F.R. 1.17(a)(3), authorization to charge a deposit account in the amount of \$110.00 to cover this extension of time request also is submitted herewith.

The objection to the abstract is respectfully traversed. The abstract has been amended to delete the word "said" as suggested in the Office Action. Accordingly, Applicants respectfully request that the objection to the abstract be withdrawn.

The rejection of Claims 1-5 under 35 U.S.C. § 112 is respectfully traversed. Applicants submit that Claim 1 distinctly claims the subject matter which Applicants regard as the invention, and thus is definite. More specifically, Claim 1 has been amended to recite "a first direction when actuated and said latch actuator rotating in a second direction opposite the first direction ...."

For at least the reasons set forth above, Applicants respectfully request that the Section 112 rejection of Claims 1-5 be withdrawn.

The rejection of Claims 1-19 under 35 U.S.C. § 103 as being unpatentable over Rop (U.S. Patent No. 2,948,560) in view of Marks et al. ("Marks") (U.S. Patent No. 4,776,620) is respectfully traversed.

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Rop describes a latch mechanism for a household refrigerator. A keeper (11) is rigidly secured to a refrigerator cabinet for engagement and disengagement of a pivotally mounted latch bolt (14). The latch bolt includes a keeper engaging roller (16), a base portion (17), and a resiliently flexible portion (18) extending therebetween. The latch bolt base portion includes a slot (19) that receives a pin (24) of a handle (20). The handle rotates about a pivot pin (21), and as the handle is rotated, movement of the pivot pin in slot of the latch bolt base portion causes the flexible portion of the latch bolt to rotate and engage or disengage the keeper engaging roller from the rigid keeper mounted to the refrigerator cabinet. Rop col. 3, lines 19 to col. 4, line 35.

Marks describes a door latching mechanism (30) for a dishwasher door (16). The inside of door has a frame (32) fixedly secured to the door for supporting a switch (34) and a bolt (36). The frame (32) defines an upwardly opening pocket (38) which closely and fixedly accepts the switch that is activated by depressing an actuator button (46) downward. The bolt has an enlarged head (48) extending upwardly from an elongate leg (50) on the frame which resides closely, guidingly against an edge (58) on the actuator button. A strike plate (60) is carried in cantilever fashion by a frame element and projects forwardly of a front edge of a tub (29). The strike plate has a forward latching portion (68) which engages the bolt. When the door is closed, the bolt projects through a rectangular cut-out (110) on the strike plate and allows latching, at the same time, a corner (108) of the strike plate bears directly on the actuator button so as to activate the same. Marks col. 2, line 52 to col. 3, line 48.

Applicants respectfully submit that the Section 103 rejection of the presently pending claims is not a proper rejection. Obviousness cannot be established by merely suggesting that it would have been an obvious to one of ordinary skill in the art to modify Rop according to the teachings of Marks. More specifically, as is well established, obviousness cannot be established by combining the teachings of the cited art to produce the claimed invention, absent some teaching, suggestion, or incentive supporting the combination. Neither Rop nor Marks, describe or suggest the claimed combination. Rather, the present Section 103 rejection is based on a combination of teachings selected from multiple patents in an attempt to arrive at the claimed invention. Specifically, Rop is cited for its teaching of a resilient latch mechanism bolt engaged to a rigid keeper mounted to a refrigerator cabinet, and Marks is cited for its teaching of a rigid latch mechanism bolt engaged a resilient keeper. Since there is no teaching nor suggestion in the cited art for the claimed combination, the Section 103 rejection appears to be based on a hindsight reconstruction in which isolated disclosures

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have been picked and chosen in an attempt to deprecate the present invention. Of course, such a combination is impermissible, and for this reason alone Applicants request that the Section 103 rejection of Claims 1-19 be withdrawn.

Furthermore, in contrast to the assertion within the Office Action, Applicants respectfully submit that it would not be obvious to one skilled in the art to combine Rop with Marks because there is no motivation to combine the references suggested in the art. Rather, the Examiner has not pointed to any prior art that teaches or suggests to combine the disclosures, other than Applicants' own teaching. Specifically, only the conclusory statement "[i]t would have been obvious to one having ordinary skill in the art at the time the invention was made to have a resilient keeper and a rigid actuator in a dishwasher latch assembly, as taught by Marks, into a latching device as described by Rop, because it will consider as a design consideration that will not affect the fact of engaging the keeper to the actuator" suggests combining the references.

Applicants respectfully submit however, that the prior art teaches away from the present invention and fails to teach the advantages of the present invention. More specifically, Rop describes a rigid keeper mounted to a cabinet and interacting with a flexible bolt of the latch mechanism, but Rop does not describe nor suggest a resilient keeper that is engaged to the door retainer projection in the door. Marks describes a resilient strike plate, but Marks does not describe nor suggest a latch assembly wherein the latch assembly includes a handle pivotally mounted to the door for rotation about a first end, a latch actuator contacting the handle and mounted to the door for rotation about a second end, the handle rotates in a first direction when actuated and the latch actuator rotates in a second direction opposite the first direction and a resilient keeper that is engaged to the door retainer projection in the door. Accordingly, Applicants respectfully submit that there is no suggestion or motivation to combine Rop with Marks.

As the Federal Circuit has recognized, obviousness is not established merely by combining references having different individual elements of pending claims. Ex parte Levengood, 28 U.S.P.Q.2d 1300 (Bd. Pat. App. & Inter. 1993), MPEP 2143.01. Rather, there must be some suggestion, outside of Applicants' disclosure, in the prior art to combine such references, and a reasonable expectation of success must be both found in the prior art, and not based on Applicants' disclosure. In re Vaeck, 20 U.S.P.Q.2d 1436 (Fed. Cir. 1991).

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In the present case, neither a suggestion nor motivation to combine the prior art disclosures, nor any reasonable expectation of success has been shown.

Moreover, it is impermissible to use the claimed invention as an instruction manual or "template" to piece together the teachings of the cited art so that the claimed invention is rendered obvious. Specifically, one cannot use hindsight reconstruction to pick and choose among isolated disclosures in the art to deprecate the claimed invention. Further, it is impermissible to pick and choose from any one reference only so much of it as will support a given position, to the exclusion of other parts necessary to the full appreciation of what such reference fairly suggests to one of ordinary skill in the art. The present Section 103 rejection is based on a combination of teachings selected from multiple patents in an attempt to arrive at the claimed invention. Since there is no teaching nor suggestion in the cited art for the combination, the Section 103 rejection appears to be based on a hindsight reconstruction in which isolated disclosures have been picked and chosen in an attempt to deprecate the present invention. Of course, such a combination is impermissible, and for this reason alone, Applicants request that the Section 103 rejection be withdrawn.

Applicants respectfully submit that absent the teaching of the present specification, neither Rop nor Marks, considered alone or in combination, describe or suggest a latch assembly for a door including a door retainer projection, wherein the latch assembly includes a handle pivotally mounted to the door for rotation about a first end, a latch actuator contacting the handle and mounted to the door for rotation about a second end, the handle rotates in a first direction when actuated and the latch actuator rotates in a second direction opposite the first direction, and a resilient keeper is engaged to the door retainer projection in a closed position, and wherein the latch actuator is configured to disengage the keeper from the door retainer projection when the handle is actuated.

Neither Rop nor Marks, considered alone or in combination, describe nor suggest the claimed combination, and as such, the presently pending claims are patentably distinguishable from the cited combination. Specifically, Claim 1 recites a latch assembly for a door including a door retainer projection, wherein the latch assembly includes "a handle pivotally mounted to the door for rotation about a first end, a latch actuator contacting said handle and mounted to the door for rotation about a second end, said handle rotating in a first direction when actuated and said latch actuator rotating in a second direction opposite the first direction ... and a resilient keeper engaged to the door retainer projection in a closed

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position, said latch actuator configured to disengage said keeper from the door retainer projection when said handle is actuated."

Neither Rop nor Marks, considered alone or in combination, describe or suggest a latch assembly for a door including a door retainer projection, wherein the latch assembly includes a handle pivotally mounted to the door for rotation about a first end, a latch actuator contacting the handle and mounted to the door for rotation about a second end, the handle rotates in a first direction when actuated and the latch actuator rotates in a second direction opposite the first direction, and a resilient keeper is engaged to the door retainer projection in a closed position, and wherein the latch actuator is configured to disengage the keeper from the door retainer projection when the handle is actuated. Rather, Rop and Marks appear to teach away from the present invention and each other. More specifically, Rop describes a rigid keeper mounted to a cabinet and interacting with a flexible bolt of the latch mechanism, but Rop does not describe nor suggest a resilient keeper that is engaged to the door retainer projection in the door. Marks describes a resilient strike plate, but Marks does not describe nor suggest a latch assembly wherein the latch assembly includes a handle pivotally mounted to the door for rotation about a first end, a latch actuator contacting the handle and mounted to the door for rotation about a second end, the handle rotates in one direction when actuated and the latch actuator rotates in a second direction opposite the first direction and a resilient keeper that is engaged to the door retainer projection in the door. For at least the reasons set forth above, Applicants respectfully submit that Claim 1 is patentable over Rop in view of Marks.

Claims 2-5 depend from independent Claim 1. When the recitations of Claims 2-5 are considered in combination with the recitations of Claim 1, Applicants submit that dependent Claims 2-5 likewise are patentable over Rop in view of Marks.

Claim 6 recites a door latch assembly for an appliance, the latch assembly includes "a door comprising a door retainer projection ... a latch handle pivotally mounted to said door ... and a latch actuator pivotally mounted to said door, said latch handle pivoting in one direction, said latch actuator pivoting in another direction, said handle selectively positionable between an open position and a closed position to couple said door to the appliance via said door retainer projection."

Neither Rop nor Marks, considered alone or in combination, describe or suggest a door latch assembly for an appliance, wherein the latch assembly includes a door including a

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door retainer projection, a latch handle pivotally mounted to the door, and a latch actuator pivotally mounted to the door, the latch handle pivoting in one direction, the latch actuator pivoting in another direction, and wherein the handle is selectively positionable between an open position and a closed position to couple the door to the appliance via the door retainer projection. Rather, Rop and Marks appear to teach away from the present invention and each other. More specifically, Rop describes a latch mechanism bolt that is engaged to a keeper mounted to a refrigerator cabinet to secure the door, but Rop does not describe nor suggest a door comprising a door retainer projection. Marks describes a door latching mechanism with a fixed bolt and strike plate, but Marks does not describe nor suggest a door latch assembly for an appliance, wherein the latch assembly includes a door including a door retainer projection, a latch handle pivotally mounted to the door, and a latch actuator pivotally mounted to the door, the latch handle pivoting in one direction, the latch actuator pivoting in another direction, and wherein the handle is selectively positionable between an open position and a closed position to couple the door to the appliance via the door retainer projection. For at least the reasons set forth above, Applicants respectfully submit that Claim 6 is patentable over Rop in view of Marks.

Claims 5-10 depend from independent Claim 6. When the recitations of Claims 5-10 are considered in combination with the recitations of Claim 6, Applicants submit that dependent Claims 5-10 likewise are patentable over Rop in view of Marks.

Claim 11 recites a dishwasher comprising "a tub assembly comprising a keeper attached thereto ... a door assembly comprising a door retainer projection for engagement with said keeper ... a latch handle pivotally coupled to said door assembly for rotation about a first longitudinal axis ... a latch actuator pivotally coupled to said door assembly for rotation about a second longitudinal axis, said latch handle and said latch actuator rotationally coupled to one another, said latch actuator disengaging said keeper from said door retainer projection as said handle is rotated."

Neither Rop nor Marks, considered alone or in combination, describe or suggest a dishwasher that includes a tub assembly including a resilient keeper attached thereto, a door assembly including a door retainer portion for engagement with the keeper, a latch handle is pivotally coupled to the door assembly for rotation about a first longitudinal axis, a latch actuator is pivotally coupled to the door assembly for rotation about a second longitudinal axis, wherein the latch handle and the latch actuator are rotationally coupled to one another,

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and wherein the latch actuator disengages the keeper from the door retainer projection as the handle is rotated. Rather, Rop and Marks appear to teach away from the present invention and each other. More specifically, Rop describes a latch mechanism bolt that is engaged to a keeper mounted to a refrigerator cabinet, but Rop does not describe nor suggest a door assembly including a door retainer projection for engagement with the keeper, a latch handle is pivotally coupled to the door assembly for rotation about a first longitudinal axis, a latch actuator is pivotally coupled to the door assembly for rotation about a second longitudinal axis, wherein the latch handle and the latch actuator are rotationally coupled to one another. Marks describes a door latching mechanism with a fixed bolt and strike plate, but Marks does not describe nor suggest a door assembly including a door retainer projection for engagement with the keeper, a latch handle is pivotally coupled to the door assembly for rotation about a first longitudinal axis, a latch actuator is pivotally coupled to the door assembly for rotation about a second longitudinal axis, wherein the latch handle and the latch actuator are rotationally coupled to one another. For at least the reasons set forth above, Applicants respectfully submit that Claim 11 is patentable over Rop in view of Marks.

Claims 12-15 depend from independent Claim 11. When the recitations of Claims 12-15 are considered in combination with the recitations of Claim 11, Applicants submit that dependent Claims 12-15 likewise are patentable over Rop in view of Marks.

Claim 16 recites a door assembly for a dishwasher, said door assembly comprising "an escutcheon ... a latch handle pivotally mounted to said escutcheon about a first longitudinal axis ... and a latch actuator pivotally mounted to said escutcheon about a second longitudinal axis; said latch handle contacting said latch actuator when rotated about said first longitudinal axis in a first direction and causing said latch actuator to rotate about said second longitudinal axis in a second direction opposite said first direction."

Neither Rop nor Marks, considered alone or in combination, describe or suggest a door assembly for a dishwasher, the door assembly that includes an escutcheon, a latch handle pivotally mounted to the escutcheon about a first longitudinal axis, and a latch actuator pivotally mounted to the escutcheon about a second longitudinal axis, wherein the latch handle contacting the latch actuator when rotated about the first longitudinal axis in a first direction and causing the latch actuator to rotate about the second longitudinal axis in a second direction opposite the first direction. Rather, Rop and Marks appear to teach away from the present invention and each other. More specifically, Rop describes a latch



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mechanism bolt that is engaged to a keeper mounted to a refrigerator cabinet, but Rop does not describe nor suggest a door assembly that includes an escutcheon including a latch handle pivotally mounted to the escutcheon about a first longitudinal axis, and a latch actuator pivotally mounted to the escutcheon about a second longitudinal axis. Marks describes a door latching mechanism with a fixed bolt and strike plate, but Marks does not describe nor suggest a door assembly that includes an escutcheon including a latch handle pivotally mounted to the escutcheon about a first longitudinal axis, and a latch actuator pivotally mounted to the escutcheon about a second longitudinal axis. For at least the reasons set forth above, Applicants respectfully submit that Claim 16 is patentable over Rop in view of Marks.

Claims 17 and 18 depend from independent Claim 16. When the recitations of Claims 17 and 18 are considered in combination with the recitations of Claim 16, Applicants submit that dependent Claims 17 and 18 likewise are patentable over Rop in view of Marks.

Claim 19 recites a dishwasher comprising "a tub assembly comprising a resilient keeper attached thereto ... a door assembly comprising a bracket and a door retainer projection for engaging said keeper ... a latch handle hingedly coupled to said bracket, said latch handle selectively positionable about a first longitudinal axis ... and a latch actuator hingedly coupled to said bracket and rotatable about a second longitudinal axis, said latch actuator in contact with said latch handle, a position of said latch actuator determined by a position of said latch handle, said latch handle positionable to disengage said keeper from said door retainer projection with said latch actuator."

Neither Rop nor Marks, considered alone or in combination, describe or suggest a dishwasher that includes a tub assembly including a resilient keeper attached thereto, a door assembly including a bracket and a door retainer projection for engaging the keeper, a latch handle hingedly coupled to the bracket, wherein the latch handle is selectively positionable about a first longitudinal axis, and a latch actuator hingedly coupled to the bracket and rotatable about a second longitudinal axis, wherein the latch actuator is in contact with the latch handle, a position of the latch actuator is determined by a position of the latch handle, and wherein the latch handle is positionable to disengage the keeper from the door retainer projection with the latch actuator. Rather, Rop and Marks appear to teach away from the present invention and each other. More specifically, Rop describes a latch mechanism bolt that is engaged to a rigid keeper mounted to a refrigerator cabinet, but Rop does not describe nor suggest a dishwasher that includes a tub assembly including a resilient keeper attached

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thereto, a door assembly including a bracket and a door retainer projection for engaging the keeper, a latch handle hingedly coupled to the bracket, wherein the latch handle is selectively positionable about a first longitudinal axis, and a latch actuator hingedly coupled to the bracket and rotatable about a second longitudinal axis, wherein the latch actuator is in contact with the latch handle. Marks describes a door latching mechanism for a dishwasher with a fixed bolt and strike plate, but Marks does not describe nor suggest a dishwasher that includes a tub assembly including a resilient keeper attached thereto, a door assembly including a bracket and a door retainer projection for engaging the keeper, a latch handle hingedly coupled to the bracket, wherein the latch handle is selectively positionable about a first longitudinal axis, and a latch actuator hingedly coupled to the bracket and rotatable about a second longitudinal axis, wherein the latch actuator is in contact with the latch handle. For at least the reasons set forth above, Applicants respectfully submit that Claim 19 is patentable over Rop in view of Marks.

For the reasons set forth above, Applicants respectfully request that the Section 103 rejection of Claims 1-19 be withdrawn.

In view of the foregoing amendments and remarks, all the claims now active in this application are believed to be in condition for allowance. Reconsideration and favorable action is respectfully solicited.

Respectfully Submitted,



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## IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Applicant: Gregory Owen Miller, et al.

Serial No.: 09/682,877

Filed: October 26, 2001

For: METHODS AND APPARATUS  
FOR SECURING A  
DISHWASHER DOOR

Art Unit: 3677

Examiner: Carlos Lugo

## SUBMISSION OF MARKED UP PARAGRAPHS AND CLAIMS

Hon. Commissioner for Patents  
Washington, D.C. 20231

In furtherance of the response to the Office Action dated October 16, 2002 submitted herewith, Applicants hereby submit marked up versions of the amendments therein:

IN THE ABSTRACT

Please replace the abstract with the following paragraph:

A latch assembly for a door including a door retainer projection is provided. The latch assembly includes a handle pivotally mounted to the door for rotation about a first end, and a latch actuator contacting [said] the handle and mounted to the door for rotation about a first end. The handle rotates in one direction when actuated and the latch actuator rotates in a second direction opposite the first direction. A keeper is engaged to the door retainer projection in a closed position, and the latch actuator is configured to disengage the keeper from the door retainer projection when the handle is actuated.

IN THE CLAIMS

1. (twice amended) A latch assembly for a door including a door retainer projection, said latch assembly comprising:

a handle pivotally mounted to the door for rotation about a first end;

a latch actuator contacting said handle and mounted to the door for rotation about a second end, said handle rotating in [one] a first direction when actuated and said latch actuator rotating in a second direction opposite the first direction; and

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a resilient keeper engaged to the door retainer projection in a closed position, said latch actuator configured to disengage said keeper from the door retainer projection when said handle is actuated.

11. (once amended) A dishwasher comprising

a tub assembly comprising a resilient keeper attached thereto;

a door assembly comprising a door retainer [portion] projection for engagement with said keeper;

a latch handle pivotally coupled to said door assembly for rotation about a first longitudinal axis; and

a latch actuator pivotally coupled to said door assembly for rotation about a second longitudinal axis, said latch handle and said latch actuator rotationally coupled to one another, said latch actuator disengaging said keeper from said door retainer projection as said handle is rotated.

16. (twice amended) A door assembly for a dishwasher, said door assembly comprising:

an escutcheon;

a latch handle pivotally mounted to said escutcheon about a first [rotational] longitudinal axis; and

a latch actuator pivotally mounted to said escutcheon about a second [rotational] longitudinal axis[;] , said latch handle contacting said latch actuator when rotated about said first longitudinal axis in a first direction and causing said latch actuator to rotate about said second longitudinal axis in a second direction opposite said first direction.

19. (twice amended) A dishwasher comprising:

a tub assembly comprising a resilient keeper attached thereto;

a door assembly comprising a bracket and a door retainer projection for engaging said keeper;

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a latch handle hingedly coupled to said bracket, said latch handle selectively positionable about a first longitudinal axis; and

a latch actuator hingedly coupled to said bracket and rotatable about a second longitudinal axis, said latch actuator in contact with said latch handle, a position of said latch actuator determined by a position of said latch handle; said latch handle positionable to disengage said keeper from said door retainer projection with said latch actuator.

Respectfully Submitted,



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